

# CONNECTICUT AUTOMOTIVE RETAILERS ASSOCIATION

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## Testimony

**TO:** Joint Committee on General Law

**FR:** James T. Fleming, President  
Connecticut Automotive Retailers Association (CARA)

**DT:** Tuesday, February 22, 2011

**RE:** **Opposition to So-Called "Right to Repair" Legislation**  
SB 160 AAC The Availability of Automobile Diagnostic Codes

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### SUMMARY:

The Connecticut Automotive Retailers Association (CARA) respectfully submits its **strong opposition** to the so-called "Right to Repair" bill, as listed above. CARA respectfully requests that Committee members oppose passage of this unnecessary bill.

CARA represents 245 franchised new car dealers in Connecticut, who account for nearly 13% of the state's retail economy and employ over 12,500 employees across the state. If this legislation were to become law, its provisions would strike at the very foundations of the commercial retail activities provided by new car dealerships in your communities, thereby threatening not only the number of your constituents employed at dealerships throughout the state but much of the sales and property tax revenues delivered to the State government and the municipalities you represent at a time when we can ill afford any loss in tax revenue.

Independent repair shops already have access to the service information just like the repair shops I represent in a franchised dealership. It is not the case that independent repairers are unable to repair vehicles because the vehicle manufacturers have denied them access to the information, tools, equipment, and computer software they need to fix the vehicles. In many cases, they don't understand how to access the information, are unwilling to make the necessary investment in their businesses to service a wide range of vehicles or, in some, cases they want it for free.

This legislation is not about improving consumer services or the flow of information to auto repairers. Independent repairers perform over 75% of all non-warranty vehicle repairs and presently have the ability to access from the vehicle manufacturers any information necessary to fix a vehicle. However, the issue seems to be that they **did not want to pay for the software, or for the tools and equipment**, or for the access to Web sites in order to obtain technical information needed to properly repair today's vehicles; they wanted it all for free.

This is not about repairing vehicles. It is really **a fight about auto parts**. Plain and simple in the grand scheme, this legislation, as are its related bills filed in twelve other states and in Congress through the past decade, is an attempt by large, publicly-traded, after-market parts companies (i.e. NAPA, AutoZone, Pep Boys, etc.), using independent repair organizations as a front, to obtain the proprietary and other protected information

**and trade secrets developed by vehicle manufacturers so that they can begin to further undercut not only the parts services the manufacturers provide to consumers and dealers but also the repair services, especially warranty work, the franchised auto dealers provide, free of charge, to their customers.**

There are safety issues at play here as well. Automakers rigorously test and retest their vehicles and their components to ensure that those driving them are as safe as possible. Manufacturers know that components such as air bags and seat belts must work reliably and in various conditions. It is unknown how an aftermarket part will respond in a crash because they have not been properly tested.

More importantly, should the after-market parts companies succeed in getting statutory approval to essentially "steal" the intellectual property and parts designs that manufacturers have toiled long and hard to develop at considerable financial investment, this will result in a substantial loss of jobs at the parts manufacturing companies located in this country that serve the domestic marketplace for manufacturers. The after-market parts companies who are leading the charge for this bill and others like it have virtually no investment in the domestic manufacturing marketplace, as they almost exclusively have their parts manufactured overseas, mostly in China. If their efforts here and in Congress are successful, our economy will suffer the direct loss of well paying (mostly union) manufacturing jobs in this country.

**In addition to the big picture view of this legislative tussle, CARA strongly opposes the legislation for the following reasons:**

**1. We do not see that a problem exists for independent repair shops to access appropriate information or equipment to repair vehicles.**

In Connecticut today there are over 30 manufacturers supporting 245 new vehicle franchised dealerships. A franchised dealer for a particular line make, pursuant to the franchise agreement, is required to perform service and repair work on vehicles from that manufacturer. This can be warranty work – for which the customer is not charged, but for which the dealer receives compensation from the manufacturer on the customer's behalf – and it can be for work on the vehicle after the expiration of the warranty. In order to have full capability to perform service and repair work for the manufacturer's vehicles, dealers are required to make a considerable financial investment in equipment, tools, parts, personnel, and training pursuant to the terms of the franchise agreement. This is in addition to the financial investment demanded by the manufacturer under the franchise agreement for the right to sell and lease new vehicles. And the costs are re-occurring; for example, dealers must spend thousands of dollars each year to update special tools and diagnostic equipment, and send their technicians for manufacturer-certified training. As a franchised dealer, the dealer has access to everything necessary to service and repair the line make in question, but it all comes at a cost. Nothing is provided free.

However, independent repair shops are not precluded from getting the information they need to service and repair vehicles. Also, many new car dealers repair and service vehicles that are not of their franchise line make. For instance, a Ford dealer may advertise having the capability to service and repair all domestic brands. This puts that dealer into the same position

as an independent repairer; that is, needing information and diagnostic tools. In fact, because many of our CARA member dealers do repair vehicles for which they are not franchised, some are members of one or more of the following: the Alliance of Automotive Service Providers (AASP), and the Automotive Service Association (ASA).

According to our member dealers, if one is willing to make the necessary financial expenditure, there is not a problem obtaining the information and tools needed to service and repair all makes of vehicles brought into their shops. In fact, in addition to the information available for a price on the manufacturers' Web sites, third-party independent information providers (such as Identifix, ALLDATA, Mitchells, Motor Information Systems) sell the necessary information to independent repairers. Diagnostic equipment is readily available from Snap-On, Mac, Hunter and others including Amazon.com. The access capabilities are there for anyone who wishes to purchase it.

**2. Since 2000, a joint manufacturer-repairer clearinghouse has existed to address service information access issues raised by independent repair shops against vehicle manufacturers.**

The National Automotive Service Task Force ([www.nastf.org](http://www.nastf.org)) was formed in late 2000 through the collaborative efforts of vehicle manufacturers, auto dealers, independent repairers, and tool and parts companies to resolve access issues. It is a voluntary, non-governmental body representing many of the interested parties in this debate, including new car dealers, vehicle manufacturers, repair shop owners, tool companies, technicians, and the independent information providers. Since then, all auto manufacturers selling vehicles in the United States marketplace have established Web sites for the distribution of service and training information to anyone who needs it. The Web sites also provide information on how to obtain factory authorized equipment for testing and repairing vehicles. As stated previously, this equipment is readily available to any person who wishes to purchase it. NASTF resolves complaints from repair shops on access issues. NASTF will, on any service technician's behalf, contact an automaker to address any missing repair data—free of charge. All the technician needs is a computer or a fax machine. As far as we are concerned, the current approach is suitable.

**3. This legislation is a Trojan Horse that is the first step in undermining the manufacturer-dealer franchise system in Connecticut and nationally.**

Today's issue is not really about access and competition. Both exist already at high levels. A segment of the independent repair industry led by the Alliance of Automotive Service Providers (AASP) and the aftermarket parts companies have previously pushed this issue in more onerous forms in Congress, going so far as demanding certain intellectual property from the manufacturers in an effort to usurp the billions of dollars in research and development monies manufacturers have expended to develop diagnostic equipment, tools, and parts. They lost in Congress numerous times and have now turned to the states, filing bills in several jurisdictions to start.

However, if one reviews the bills that have been filed elsewhere, they would mirror the intent of the federal proposal and would not be as innocent-appearing as the bill here before you

is. AASP and its allies have been pushing not only for repair information but also for access to the manufacturers' detailed specifications needed to create 'knock-off' replacement equipment and parts. Frankly, from our perspective today, if this group and its allies are able to push this bill through the process here in Connecticut under the "sheep's clothing" of being "pro-consumer", it would be but a blink of an eye before extremely more onerous bills would become this group's next agenda. Since their efforts failed in Congress, all it would take is for them to be successful in one state for the codes and other proprietary information to be made available industry-wide. In fact, if this bill were to become law here the one thing we can all count on is costly protracted litigation as the manufacturers fight the after-market parts companies' efforts to steal their intellectual property.

### **CONCLUSION**

For the sake of our 245 small businesses, our 12,500 employees, and consumers in your districts, we respectfully request that this bill be rejected by the Committee.